

## REMARKS

Claims 1, 2 and 5-13 are presently pending in the application. Claims 3 and 4 have been cancelled without prejudice. Claims 3 and 4 were indicated to be allowable in the parent application (U.S. Appl. Serial No. 09/460,319) where they were amended to overcome the Examiner's outstanding objections. In view of the argument hereinbelow, Applicants respectfully submit that claims 1, 2 and 5-13 are now in condition for allowance.

### Claim Rejections -- 35 U.S.C. § 102(e)

Claims 1, 2 and 5-13 presently stand rejected under Section 102(e) in the parent application (U.S. Appl. Serial No. 09/460,319) as being unpatentable over Segal et al. U.S. Pat. No. 6,496,941 ("Segal"). Applicants respectfully submit that Segal fails to teach or suggest the claimed invention.

The present invention provides a method and apparatus for controlling data loss in an ATM network where permanent virtual circuits (PVCs) are automatically reconfigured to optimize data flow between a plurality of ATM switches. The illustrative method, as set forth in claim 1, comprises the steps of:

- a) identifying a PVC for a data stream at a first period of time;
- b) recording the occurrence of *an automatic PVC re-configuration* for said data stream through said ATM network; and
- c) *inhibiting a second automatic re-configuration* of said PVC through said ATM network until after the occurrence of a predetermined event.

As described in the specification:

If the ATM switch controller (210) detects that one or more data streams routed from a link input (232) to a link output (234) to the switch is scheduled to be optimized, the controller (210) first determines whether or not an optimization should in fact be made, *prior* to executing the optimization task. The ATM controller (210) records the occurrences of automatic re-configurations and uses those records to determine if subsequent automatic re-configurations should occur or if they should be inhibited. If a link has been recently optimized, subsequent re-optimization is inhibited unless certain conditions are met. Stated alternatively, automatic optimization can be inhibited until the occurrence

of some other event, such as the passage of some minimum length of time since the last optimization was performed. Other events which might be checked prior to automatic optimization include, but are not limited to, the addition or deletion of any other data path or conduit through the network (120, 122, 124, 126, 128, 130 and 132); the addition or deletion of an ATM switch to the network; the detection or correction of a fault on a data conduit or in a switch. Page 7, lines 10-23 (emphasis in original).

By way of contrast, Segal discloses a network disaster and recovery tool that provides for organizing the recovery of a communications network while minimizing the interference between the recovering nodes. Segal is not concerned with *automatically reconfigured* PVCs as in the present invention. As described in Segal:

An embodiment of the system and method of the present invention *calculates a metered rate at which nodes recover from a major network failure*, based on the architecture of the network and characteristics of the nodes in the network, and of the virtual circuits forming the network. An optimum metered rate is calculated, at which the network recovers quickly but without performance degrading interference. An embodiment creates a measure of the interference between recovering nodes; the measure of interference may be used to partition the set of recovering nodes into subsets, where the recovery process of each node within a subset interferes minimally with the recovery processes of other nodes within that subset. The subsets recover at different times, reducing overall recovery interference and speeding recovery. Recovering items (nodes or sets of nodes) may be sequenced so that each item recovers substantially separately in time, but where adjacent sequence items recover with some temporal overlap. The amount of interference occurring between adjacent items in the sequence is minimized. Col. 5, lines 6-25 (emphasis added).

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In an exemplary embodiment of the present invention, back-off computation module 202 determines an optimal metered attempt rate at which each node initiates reroute attempts of PVCs. The rate is the number of bundles of PVCs for which each node in network 1 initiates rerouting per second. The rate determines the initiation of both successful and unsuccessful reroutes; only a portion of the number of reroutes attempted are successfully completed. For example, if back-off computation module 202 outputs a rate of 0.0317 bundles/second, a master node experiencing a collision waits 31.54 seconds (the delay value corresponding to the rate) from the previous attempt initiation to reattempt the route.


In view of the above, Segal fails to disclose or suggest the claimed steps of "recording the occurrence of an automatic PVC re-configuration for said data stream through said ATM network" and "inhibiting a second automatic re-configuration of said PVC through said ATM network until after the occurrence of a predetermined event." Segal is not concerned with automatic PVC reconfiguration; but rather is directed to a system for organizing recover from a major network failure. Accordingly, the Segal system never "records the occurrence of an automatic PVC reconfiguration." Nor does Segal ever "inhibit a second automatic re-configuration" of a PVC as called for in the claims. Accordingly, it is respectfully submitted that Segal fails to disclose or suggest the invention of independent claim 1 and those claims dependent thereon. The same analysis applies to independent claim 6 and dependent claims 7-13. Thus, it is respectfully submitted that claims 1, 2 and 5-13 are patentable over Segal.

In view of the foregoing, Applicants respectfully submit that claims 1, 2 and 5-13 are in condition for allowance and allowance of these claims at an early date is solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to AT&T Corp. Account No. 01-2745. The Examiner is invited to contact the undersigned at (201) 224-7957 to discuss any matter concerning this application.

Respectfully submitted,  
John D. Brandt, et al.  
By:

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